IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2668 of 2007
Date of Decision: 31.7.2007

Gaurav and another .....Appellants

Versus

Khem Chand ....Respondent

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Sanjeev Kaushik, Advocate, for the appellants.

HEMANT GUPTA, J.

The driver and the owner of the offending car are in appeal aggrieved against the award passed by the Motor Accident Claims Tribunal, Panipat (for short `the Tribunal') dated 23.5.2007, whereby a sum of Rs.1,67,000/- has been awarded as compensation in favour of the respondent herein.

It is the case claimant that on 13.1.2005, when he was riding his bicycle and going from Sewah to Panipat, he was hit by Maruti Car No. DL-5CA-6895. The claimant suffered grievous injuries and his left leg was amputated. The present appellants denied the accident in the written statement. The claimant himself appeared as his own witness and produced a report submitted by the police under section 173 Cr.P.c. Exhibit PW/C and the charge-sheet Exhibit PW3/A, whereby appellant No. 1 has been ordered to stand trial for the offences under Sections 279, 337 and 338 IPC.

The learned Tribunal relying upon the evidence of

the claimant and the fact that none had appeared as a witness on behalf of the owner and the driver to controvert the manner of accident, found the appellants responsible for causing the accident and consequently, determined the amount of compensation payable to the claimant.

Learned counsel for the appellants has vehemently argued that an FIR relating to the accident was registered after more than two months and that the appellants have been falsely implicated.

The fact is that the claimant has given detail of the manner of accident, which remains uncontroverted. Keeping in view the uncontroverted evidence, the learned Tribunal was justified in holding the appellants liable for rash and negligent driving of the car. The Tribunal is to decide the case on the basis of pre-ponderence of evidence. Therefore, mere delay in lodging of an FIR is not a consideration which is relevant for determining the negligence by the Tribunal. The appellants have not rebutted the evidence led by the claimant.

Therefore, the finding recorded by the learned Tribunal, cannot be said to be suffering from any patent illegality or irregularity, which may warrant interference by this Court in the present appeal. Hence, the present appeal is dismissed.

31-07-2007 (HEMANT GUPTA)
ds JUDGE